UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

November 12, 2004

Kenneth Parr
Bureau of Reclamation
705 North Plaza St.
Room 320
Carson City, NV 89701

Subject: EPA Comments on the Revised Draft Environmental Impact Statement for Trucked River Operating Agreement (CEQ. # 040402)

Dear Mr. Parr:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced revised draft environmental impact statement (RDEIS) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA supports the Truckee River Operating Agreement (TROA). TROA will increase the operational flexibility and efficiency of reservoirs in the Lake Tahoe and Truckee River basins and provide opportunities for municipal and industrial (M&I) drought water supplies, improved Truckee River water quality, and enhanced flows in the lower Truckee River for the benefit of Pyramid Lake fish. Implementation of TROA will establish California and Nevada interstate water allocation agreements, new reservoir and flow release operations, and implementation of the Water Quality Settlement Agreement (WQSA). As a signatory to the WQSA, we urge approval and implementation of TROA as soon as feasible. We commend the action agencies for the detailed background summary and historical cumulative effects description.

The RDEIS has limited information on Nevada water quality standards, Total Maximum Daily Loads (TMDLs) development, project monitoring and reporting and water conservation. There is also little information on affects of the proposed action on native fish, water quality in Nevada, and on other regional water supply projects. Therefore, we have concerns regarding potential impacts to water quality, riparian habitat and aquatic resources. We request additional information be included in the final environmental impact statement (FEIS) to expand the limited information and evaluation of the above issues. Due to our concerns, we have rated the preferred alternative, as Environmental Concerns - Insufficient Information (EC-2). Please see the enclosed Rating Factors for a description of EPA's rating system.

Our comments on the 2001 Truckee River Water Quality Settlement Agreement RDEIS are relevant to our concerns regarding this FEIS. These comments are incorporated by reference and enclosed.

We appreciate the opportunity to review this RDEIS. When the final EIS is released for public review, please send two copies to the address above (mail code: CMD-2). If you have any questions, please contact me or Laura Fujii, the lead reviewer for this project. Laura can be reached at 415-972-3852 or fujii.laura@epa.gov.

Sincerely,

/s/
Lisa B. Hanf, Manager
Federal Activities Office
Cross Media Division

Enclosures:
Summary of EPA Rating Definitions
EPA's Detailed Comments
EPA Comments on WQSA DEIS, December 19, 2001

EPA DETAILED COMMENTS FOR THE RDEIS TRUCKEE RIVER OPERATING AGREEMENT, CA AND NV, NOVEMBER 12, 2004

Water Quality

1. The water quality information in the Revised Draft Environmental Impact Statement (RDEIS) includes very little data regarding water quality in Nevada. However, the water quality benefits from the Trucked River Operating Agreement (TROA) are primarily in the downstream Nevada reaches of the Truckee River. Furthermore, statements in the RDEIS appear to assume that water quality standards set by California apply to the Truckee River from Lake Tahoe all the way to Reno, Nevada (e.g., Summary of Effects, p. 3-117; Cumulative Effects, p. 4-31).

Recommendations:
California water quality standards should be used for the analysis of effects from Lake Tahoe and the upper Truckee River Basin Reservoirs to the Nevada state line and Nevada water quality standards for the environmental analysis from the state line to Reno and Pyramid Lake, Nevada. The final environmental impact statement (FEIS) should clearly state which water quality standards are being used in the environmental effects analysis.

We recommend a detailed summary of Nevada water quality standards be provided, similar to the information provided in "Summary of Pertinent Water Quality Standards for California Waters" (p. 3-122).

Table 3.19 should clearly state that the standard violations are violations of the Nevada water quality standards downstream of Reno, Nevada.

2. The Water Quality Overview of Methods of Analysis states that a historical data analysis of the entire Truckee River system was conducted and used to identify water quality concerns throughout the Truckee River basin (p. 3-120). Historical data were compared with water quality standards. It is not clear which water quality standards were utilized in this comparison--California's, Nevada's, or both. Nor is it clear whether the analysis included a specific evaluation of effects of TROA on water quality standards for Nevada waters. Nevada waters are of specific interest because many of the benefits to water quality will be realized in the Nevada portion of the Truckee River.

Recommendation:
The analysis of water quality effects should not be limited to California waters or California water quality standards affected by TROA. We recommend the FEIS clarify whether an evaluation of effects of TROA on water quality standards for Nevada waters was conducted and included in the RDEIS. If not, the FEIS should include such an evaluation.

3. The RDEIS includes evaluations of Truckee River flow effects under both Water Resources (pps. 3-85 to 3-88) and Riparian Habitat and Riparian-Associated Wildlife (pps. 3-220

to 3-223). These evaluations are confusing because they appear to present different and, seemingly contradictory, conclusions and descriptions of flow effects. For example, the riparian habitat flow evaluation states that TROA would have significant beneficial effects due to higher average monthly Truckee River flows in dry years (p. 3-220). The water resources flow evaluation states that higher flows occur in wet years under TROA with lower flows in dry years (p. 3-88).

Recommendation:
We recommend the FEIS include a summary of the water resources and riparian habitat flow evaluations which explain how these analyses are consistent. This summary should include a short description of anticipated changes in flows on a monthly basis between No Action, current conditions, and TROA and the effect these flows may have on specific resources (e.g., fish, riparian habitat, water quality, TMDLs).

4. The RDEIS provides a description of the Total Maximum Daily Load (TMDL) program within Chapter 4 Cumulative Impacts (p. 4-24). Section 303(d) of the Clean Water Act (CWA) identifies impaired waters. This CWA 303(d) list and the TMDL program, which addresses the water quality impairment in these water, are important factors in resolving water quality issues and should also be included within the analysis and discussion of water quality effects.

Recommendations:
We recommend the FEIS include a separate section on Section 303(d) of the CWA and TMDLs within the discussion of potential effects on water quality. Include an evaluation of potential effects of TROA on TMDL development and implementation.

The affected environment discussion (for both sections of the Truckee River) (Chapter 3: Water Quality, Affected Environment, p. 3-115) should include a list of the 303(d) listed constituents and describe the TMDLs currently in place for the Truckee River. Although it is true that the TMDL issues are beyond the scope of the water quality analysis (p. 3-117), the TMDLs currently in place on the Truckee River are part of the affected environment and should be included in the discussion.

The description of the TMDL Program in Chapter 4 Cumulative Impacts (p. 4-25), does not include the most current information on the 303(d) list or TMDLs for the Truckee River. The State of Nevada prepared a new 303(d) list in 2002 which lists temperature, total phosphorus, and turbidity for the various Truckee River reaches in Nevada. In addition, the TMDLs for the Truckee River were prepared by the State of Nevada in 1994 and were for total dissolved solids (TDS), total phosphorus, and total nitrogen. We recommend the FEIS include the most up to date information available on the 303(d) list and TMDLs.

5. Potential impacts to water quality are addressed in different sections of the RDEIS. As a result, it is difficult to evaluate the overall water quality effects of TROA. For example,

dissolved oxygen and temperature effects are evaluated under Water Quality (p. 3-115) while sedimentation and flows are evaluated in other parts of the RDEIS. Conflicting statements are also made, such as the description of Lake Tahoe as a pristine water resource (pg. 3-115) and a later statement that Lake Tahoe is impaired under the Clean Water Act (CWA) for nitrogen, phosphorus, and sedimentation/siltation (p. 3-131).

Recommendation:
We recommend the FEIS include a discussion of water quality which incorporates the evaluation of potential effects on all facets of water quality--dissolved oxygen, temperature, sedimentation, flows, nitrogen, and phosphorus.

6. We have the following recommendations for clarifications or corrections regarding water quality.

Recommendations:
P. 3-115 Lake Tahoe to Reno. The statement regarding Lake Tahoe as a designated Outstanding Natural Resource (ONR) only applies to California. Nevada has not designated Lake Tahoe as an ONR.

P. 3-128 Total Dissolved Solids (TDS) and Nutrient Loadings to Pyramid Lake. Paragraph 5. The FEIS should describe how installation of biological nitrogen removal technology at the Tahoe-Truckee Sanitation Agency facility addresses the Pyramid Tribe's concerns regarding high TDS violations.

P. 4-21 Wastewater and Stormwater Discharge Permits. Clean Water Act Section 404 Dredge and Fill permits should be addressed in a separate section. Wastewater and stormwater permits are under Section 402 of the Clean Water Act and dredge and fill permits under Section 404.

P. 4-22 Nevada Division of Transportation (NDOT). NDOT does not issue stormwater permits. The State of Nevada issues these permits.

P. 4-22 Stormwater Control Programs in Nevada. By definition, stormwater and Phase II permits are point source permits. Thus, stating that the program addresses nonpoint source pollution from stormwater while, at the same time, discussing the stormwater permits is confusing and inappropriate.

P. 4-31 Potential Cumulative Effects of TROA. The use of TMDLs as examples of water quality standards is incorrect. TMDLs are prepared in response to violations of water quality standards but are not equivalent to water quality standards.

Alternatives

1. The RDEIS states that water quality, biological resources, and recreation are improved under TROA due to higher Truckee River flows, higher reservoir surface elevations, and flows

dedicated to specific beneficial uses. The sources of water to provide these improvements include purchase of agricultural water rights for urban use, increased reservoir operational efficiency, and water conservation.

It is our understanding that there is increasing competition for the acquisition of water rights from willing sellers in the region (Truckee River, Carson River, and Walker River basins). As the number of water purchasing programs has increased (e.g., development of urban water supply, Stillwater National Wildlife Refuge, Walker Lake restoration, Water Quality Settlement Agreement (WQSA)), the cost of water has increased and the practicability of finding sufficient numbers of willing sellers has decreased.

Recommendation:
The FEIS should provide a description of other water purchasing programs, their relationship to TROA, and their potential effects on the ability to fulfill the goals of TROA. If not already considered, we recommend a regional forum be considered to encourage collaboration and coordination of water purchasing programs. Such a forum could help resolve competition for acquisition of water rights by developing a regional consensus on the priority for transfer of agricultural water rights to other uses.

Biological Resources

1. The Truckee River has both native and non-native fish species (p. 3-153). However, the evaluation of environmental consequences appears to focus only on potential effects to non-native rainbow and brown trout (pg. 3-155, 3-160).

Recommendation:
The FEIS should include an evaluation of potential effects on native fish: Paiute sculpin, Lahontan redside shiner, Tahoe sucker, speckled dance and mountain sucker, and mountain whitefish.

Cumulative Impacts

1. The Cumulative Effects analysis addresses actions proposed in seven categories: urban development and land use, water rights acquisitions and transfers, municipal and industrial (M&I) water plans, ecosystem restoration, flood control, water quality, and climate. The risk of catastrophic fires and need for extensive fuels management are key issues in the Truckee River basin which could contribute significantly to cumulative effects on water quality and fishery conditions.

Recommendation:
The FEIS should include fire risk, healthy forest fuels management plans, and catastrophic fires in the evaluation of cumulative impacts on water quality, water quantity, and flood control operations.

Water Conservation Plans

1. Although Public Law 101-618, which required negotiation of TROA, promotes conservation (e.g., water banking 209(d); effluent reuse 209 (f), p. 4-6), there is little information in the RDEIS regarding specific regional water conservation plans. Pursuant to PL 101-618, we urge serious consideration of the conservation measures proposed by this law.

Recommendation:
The FEIS should describe specific water conservation plans for jurisdictions within the study area. For example, include additional information on the South Truckee Meadows Water Treatment Plant plans to treat poor quality groundwater and water diverted from local creeks (p. 4-17).

2. There are other measures that can be taken to increase water availability for all beneficial uses. For instance, the development of sustainable irrigation systems and maximization of conservation and water reuse could provide a significant source of additional water. Conserved water could be utilized for water transfers, emergency drought supplies, and fish and wildlife beneficial uses.

Recommendation:
We recommend the FEIS describe possible options for improving existing water use and the process for implementing these options. We understand that the Nevada State Engineer would determine the final use of conserved water in Nevada, thus we do not expect the proposed water right acquisition program to rely upon conserved water sources, nor do we expect the evaluation of potential environmental impacts of water conservation actions. We seek to encourage the identification and evaluation of increased water use efficiency measures which could be implemented by any interested party. For example, describe current and potential urban and industrial water conservation practices in the Reno/Sparks metropolitan area. A list of possible options or measures for improving irrigation water productivity for consideration in the FEIS, are listed in our attached comments on the WQSA DEIS.

Monitoring

1. The RDEIS does not describe monitoring or reporting requirements to validate operational model assumptions or track improvements in operational flexibility and reservoir operation efficiencies. We urge a firm commitment to specific monitoring and reporting measures to validate the operational model and ensure effective implementation of TROA.

Recommendations:
The FEIS should include a detailed monitoring and reporting plan. The plan should include actions to help validate and verify model assumptions and track on-the-ground results of TROA implementation. Example model assumptions to verify include sediment transport capacity due to armored streambacks (p. 3-148) and greater reservoir fish productivity as a result of increased reservoir storage (p.

3-183). Reporting measures should help track benefits of TROA such as the increase in lower Truckee River and Pyramid Lake inflows, Pyramid Lake elevation gains, and increased fish spawning success. The monitoring and reporting plan should also be fully integrated into the adaptive management program recommended below.

We recommend development of an adaptive management program to ensure incorporation of changing conditions and new information into water supply management and operational decisions and actions. Change in Truckee River water quantity and quality is likely given continuing urban development, changing land use, proposed water supply developments, waste water treatment plant modifications, and TMDL implementation in the Lake Tahoe and Truckee River basins.

Bypass Flows at Hydroelectric Dams

1. It is not clear from the discussion of bypass flows at Truckee River hydroelectric dams (pps. 3-393 to 3-395) whether or not bypass flows would take place under TROA. We understand the FEIS will include an evaluation of minimum bypass flows in the 8.4 miles of bypass reaches between hydroelectric dam diversions and the discharge back to the river (p. 3-395).

Recommendation:
The FEIS should clearly state whether or not minimum bypass flows will be supplemented under TROA. Describe whether model assumptions, resulting from the decision regarding bypass flows, would modify the operation model results. Describe the potential effects on reservoir and Truckee River operations, bypass flows, implementation of TROA, water quality and other resource areas (e.g., riparian habitat, water quantity, and fisheries).

General Comments

1. The first draft Truckee River Operations Agreement was reached in May 1996. This agreement was revised and resulted in the October 2003 Draft Agreement. A description of the changes made between the first and final draft agreement are not provided in the RDEIS.

Recommendation:
In the interest of full disclosure pursuant to the National Environmental Policy Act (NEPA), we recommend the FEIS include a summary of the differences between the May 1996 and October 2003 Draft Agreement and the reasons for these changes. This information will help provide the context for the agreement and a better understanding of the underlying goals of TROA. If appropriate, describe whether negotiations are ongoing and whether they may result in further

changes to the October 2003 Draft Agreement.

2. Data presented in the analysis of potential effects on the economic environment do not appear consistent. For example, the information on hydropower generation and revenues (p. 3-325) does not match the data provided in Table 3.83 Summary of Effects on Economic Environment.

Recommendation:
The FEIS should correct apparent inconsistencies between the narrative description of effects on the economic environment and data provided in Table 3.83. We recommend citing the source of economic information used in the FEIS.

Summary paragraph for
RDEIS Truckee River Operating Agreement

EPA has concerns regarding potential impacts to water quality and sensitive resources. We request additional information in the FEIS on water quality, alternatives, biological resources, cumulative impacts, water conservation, and program monitoring and reporting measures.